

UNITED STATES DISTRICT COURT
Northern District of California

UNITED STATES OF AMERICA,

No. C 12-10 EMC (MEJ)

Plaintiff,

ORDER RE: DISCOVERY DISPUTE

v.

(Re: Docket No. 60)

ARMANDO ANTONIO MONROY and
JORGE PERAZA-RIVAS,

Defendant.

Defendants Armando Antonio Monroy and Jorge Peraza-Rivas are charged in a three-count indictment with one count of conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349, and two counts of wire fraud in violation of 18 U.S.C. § 1343. They are alleged to have made false statements in loan applications for the purchase of a residence located at 244 University Street, San Francisco, California. Currently before the Court is a discovery dispute regarding whether Defendant Peraza-Rivas should be able to obtain and examine a copy of the mirror image of a computer seized from Defendant Monroy's residence by the government pursuant to a search warrant which was executed on January 25, 2012. Defendant Peraza-Rivas argues that he has the right to obtain and examine a copy of the image because it contains evidence which is material to his defense. Peraza-Rivas further argues he has the right to obtain and examine a copy of the image because it may contain exculpatory evidence which should be produced under *Brady v. Maryland*, 373 U.S. 83 (1963). However, the government states that an IRS Computer Investigative Specialist conducted a forensic review of the image within the time period called for by the Computer Search Protocol attached to the warrant and, based on his review and in consultation with the case agent, the analyst found nothing within the scope of the search warrant. He also found nothing that needed to be disclosed to either defendant pursuant to *Brady*. Further, no files were extracted from the image and

1 the government has no documents or files from the image that it intends to introduce at trial against
2 the defendants. Accordingly, because the image contains no exculpatory evidence and the
3 government extracted no documents or files, Defendant Peraza-Rivas' request is DENIED. The
4 government is ORDERED to destroy the image or return it to Defendant Monroy.

5 **IT IS SO ORDERED.**

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7 Dated: May 16, 2013

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10 Maria-Elena James
11 United States Magistrate Judge
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